



COMMONWEALTH of VIRGINIA
DEPARTMENT OF ENVIRONMENTAL QUALITY

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Secretary of Natural Resources

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**STATE AIR POLLUTION CONTROL BOARD ENFORCEMENT ACTION
ORDER BY CONSENT
ISSUED TO
THE GOODYEAR TIRE & RUBBER COMPANY
Registration Number: 30106**

SECTION A: Purpose

This is a Consent Order issued under the authority of Va. Code § 1300 *et seq.* and 10.1-1185, between the State Air Pollution Control Board and The Goodyear Tire & Rubber Company for the purpose of resolving certain alleged violations of environmental law and/or regulations.

SECTION B: Definitions

Unless the context clearly indicates otherwise, the following words and terms have the meaning assigned to them below:

1. "Va. Code" means the Code of Virginia (1950), as amended.
2. "Board" means the State Air Pollution Control Board, a permanent collegial body of the Commonwealth of Virginia as described in Code §§ 10.1-1301 and 10.1-1184.
3. "Department" or "DEQ" means the Department of Environmental Quality, an agency of the Commonwealth of Virginia as described in Va. Code § 10.1-1183.
4. "Director" means the Director of the Department of Environmental Quality.
5. "Order" means this document, also known as a Consent Order.
6. "Goodyear" means The Goodyear Tire & Rubber Company certified to do business in Virginia and its affiliates, partners, subsidiaries, and parents.

7. "Facility" means The Goodyear Tire & Rubber Company's Danville Plant located 1901 Goodyear Boulevard, Danville, Virginia in Pittsylvania County.
8. "Regulations" means the "State Air Pollution Control Board Regulations for the Control and Abatement of Air Pollution," which have been incorporated into Title 9 of the Virginia Administrative Code (VAC).

SECTION C: Findings of Fact and Conclusions of Law

1. The Goodyear Tire & Rubber Company owns and operates the Facility. The Department designated registration number for the Facility is 30106.
2. The Goodyear Tire & Rubber Company was issued a Virginia Title V Operating Permit on November 26, 2002.

Condition V.C.2 states: "At a frequency not to exceed once every five years, the permittee shall conduct a stack test for PM and PM-10 from at least one fabric filter controlling emissions from a Banbury mixer (BBDC1-BBDC9) to demonstrate compliance with emission limits in Condition V.A.6 of this permit. Unless otherwise requested by the South Central Regional Office, performance testing required by this condition shall not be repeated for a given fabric filter until all other fabric filters have been tested. The initial test shall be performed within 180 days after the effective date of this permit. The test shall be conducted and reported and data reduced as set forth in 9 VAC 5-40-30 or 9 VAC 5-50-30 as applicable. The details of the tests shall be arranged with the South Central Regional Office. The permittee shall submit a test protocol at least 30 days prior to testing. Two copies of the test results shall be submitted to the South Central Office within 60 days after test completion and shall conform to the test format enclosed in the permit."

3. On May 23, 2003 The Goodyear Tire & Rubber Company submitted written notification that the facility has failed to conduct emissions testing of a fabric filter controlling particulate emissions from a banbury mixer in accordance with the November 26, 2002 Title V Permit.
4. On May 23, 2003 The Goodyear Tire & Rubber Company submitted a request for an extension to the 180-day testing requirement for particulate matter in regard to the Banbury Mixer/Fabric Filters.
5. On June 19, 2003 DEQ received a test protocol (proposed test date of July 22, 2003).
6. On July 17, 2003 a Notice of Violation was issued to The Goodyear Tire & Rubber Company for not stack testing/demonstrating compliance for the Banbury Mixer/Fabric Filter within the required 180-day condition.
7. On July 23, 2003 The Goodyear Tire & Rubber Company submitted a malfunction notification for the Banbury No. 6 fabric filter.

8. On July 25, 2003 The Goodyear Tire & Rubber Company responded to the Notice of Violation issued on July 17, 2003. The facility re-scheduled the compliance test for July 31, 2003 to ensure that the fabric filter was operating correctly.
9. On July 31, 2003 The Goodyear Tire & Rubber Company conducted a stack test on the No. 6 Banbury mixer and it's associated fabric filter.
10. On August 19, 2003 (as per Aug 28 letter) The Goodyear Tire & Rubber Company replaced all 130 bags in the Banbury No. 6 fabric filter.
11. On August 28, 2003, The Goodyear Tire & Rubber Company submitted a Stationary Source Sampling Report (for the test conducted on July 31, 2003) that demonstrates an emissions rate for the tested fabric filter as 0.013 gr/dscf.

Condition No. V.A.6., states that: "Particulate emissions from each fabric filter associated with Banbury mixer (BBDC1-BBDC9) shall not exceed 0.01 grains / dry standard cubic foot of exhaust air.

12. On September 23, 2003 The Goodyear Tire & Rubber Company submitted a letter to schedule the re-test of Banbury No. 6 fabric filter for October 16, 2003.
13. On October 16, 2003 The Goodyear Tire & Rubber Company tested the No. 6 Banbury mixer and its associated fabric filter.
14. On November 5, 2003 DEQ performed a Partial Compliance Evaluation (PCE) on the results of the July 31, 2003 stack test.
15. On November 12, 2003 The Goodyear Tire & Rubber Company submitted the Stationary Source Sampling Report for the October 16, 2003 stack test.
16. On November 18, 2003 DEQ performed a Partial Compliance Evaluation (PCE) on the results of the October 16, 2003 stack test.
17. On December 8, 2003 a Notice of Violation was issued to The Goodyear Tire & Rubber Company for the reported emissions exceedance documented in the Stationary Source Sampling Report for the July 31, 2003 test date.
18. On December 17, 2003 The Goodyear Tire & Rubber Company submitted (via e-mail) a response to the December 8, 2003 NOV.
19. On December 22, 2003 DEQ received the official response from Goodyear Tire & Rubber Company in regard to the December 8, 2003 NOV (as stated in the December 17, 2003 e-mail).

20. On February 27, 2004, The Goodyear Tire & Rubber Company submitted the Title V Semi-Annual Monitoring Report (SAMR) for the 2nd period of 2003 and the Title V ACC for calendar year 2003.
21. On April 15 & 16, 2004 DEQ performed a Partial Compliance Evaluation (PCE) on the Title V SAMR for the 2nd period of 2003 and the Title V ACC for calendar year 2003.
22. The facility reported in the Title V SAMR (2nd period 2003) & ACC (2003) that periodic monitoring was not conducted from September 22, 2003 through February 6, 2004 for the B&W and Keeler Boilers (EU035, EU036, EU037, and EU038), September 22, 2003 through January 26, 2004 for the carbon black transfer system, September 22, 2003 through January 26, 2004 for the emission points associated with the Banbury mixers, and September 22, 2003 through October 6, 2003 for the curing presses.

Condition No's. III.C., IV.C, V.C, VII.B (Monitoring) – states that: "At least one time per week an observation for the presence of visible emissions from each boiler stack shall be made."

Condition No's. III.D.1.a, IV.D, V.D, VII.C.1 (Record keeping) – states that: "The permittee shall maintain records of all emission data and operating parameters necessary to demonstrate compliance with this permit. The content of and format of such records shall be arranged with the South Central Regional Office. These records shall include, but are not limited to: (a) results of the weekly opacity observation of each boiler stack, along with any corrective actions, and ...".

Condition No. XII.F. (Permit Deviation Reporting) – states that: "The permittee shall report by the next business day any deviations from permit requirements or any excess emissions, including those attributable to upset conditions as defined in this permit, the probable cause of such deviations, and any corrective actions or preventive measures taken."

23. The facility failed to include in the listed deviations the failure to maintain records of non-scheduled maintenance for the air pollution control equipment (as reported for condition IV.B. in the ACC) and results of the stack test conducted on July 31, 2003.

Condition No. XII.D.3.b. (Record keeping and Reporting) – states that: "The permittee shall submit the results of monitoring contained in any applicable requirement to DEQ no later than March 1 and September 1 of each calendar year. This report must be signed by a responsible official, consistent with 9 VAC 5-80-80 G, and shall include: (b) All deviations from permit requirements. For purposes of this permit a "deviation" means any condition determined by observation, data from any monitoring protocol or any other monitoring which is required by the permit that can be used to determine compliance. Deviations include exceedances documented by continuous emission monitoring or excursions from control performance indicators documented through periodic or compliance assurance monitoring."

24. The facility failed to mark the "Compliance" column as Intermittent for Condition No's. III.E.1, III.E.2, V.A.6, V.C.2, and XII.D.3.
25. On April 26, 2004 a "Draft" Consent Order was sent to Goodyear Tire & Rubber Company for review prior scheduling a face-to-face meeting for resolution of the current NOV's.

26. On April 27, 2004 a Notice of Violation was issued to The Goodyear Tire & Rubber Company as a result of the April 15 & 16, PCE's on the Title V SAMR for the 2nd period of 2003 and the Title V ACC for calendar year 2003.
27. On June 7, 2004 representatives from Goodyear Tire & Rubber Company met with DEQ personnel to discuss outstanding NOV's and the inclusion of a Supplemental Environmental Project (SEP) to the Order.
28. On June 29, 2004 Goodyear Tire & Rubber submitted a letter stating that the frequency of periodic monitoring required for the curing presses had been reduced to monthly schedule thus eliminating the presses from the items listed in the April 27, 2004 NOV. DEQ agreed to remove the presses from the Order.
29. On October 6, 2004 DEQ received (via email) an SEP proposal from Goodyear Tire & Rubber Company.
30. On November 16, 2004 DEQ received (via email) a follow-up packet to finalize the submittal of the SEP.
31. On January 11, 2005 DEQ received notification that Goodyear Tire & Rubber Company was no longer seeking to use the proposed SEP.

SECTION D: Agreement and Order

Accordingly, the Board, by virtue of the authority granted it in Va. Code §10.1-1307.D, §10.1-1309, §10.1-1184 and §10.1-1316C, orders and The Goodyear Tire & Rubber Company agrees to pay a civil charge of fourty thousand six hundred and ninety-eight dollars (\$40,698.00) within 30 days of the effective date of the Order in settlement of the violations cited in this Order. Payment shall be made by check payable to the "Treasurer of Virginia", delivered to:

Receipts Control
Department of Environmental Quality
Post Office Box 10150
Richmond, Virginia 23240

The Goodyear Tire & Rubber Company shall note on the check it's federal identification number and shall indicate that payment is being made as required by this Order.

SECTION E: Administrative Provisions

1. The Board may modify, rewrite, or amend the Order with the consent of Goodyear, for good cause shown by Goodyear, or on its own motion after notice and opportunity to be heard.

2. This Order only addresses and resolves those violations specifically identified herein, including those matters addressed in the Notice of Violations issued to Goodyear by DEQ on July 17, 2003, December 8, 2003, and April 27, 2004. This Order shall not preclude the Board or the Director from taking any action authorized by law, including but not limited to: (1) taking any action authorized by law regarding any additional, subsequent, or subsequently discovered violations; (2) seeking subsequent remediation of the facility as may be authorized by law; or (3) taking subsequent action to enforce the Order. This Order shall not preclude appropriate enforcement actions by other federal, state, or local regulatory authorities for matters not addressed herein.
3. For purposes of this Order and subsequent actions with respect to this Order, Goodyear admits the jurisdictional allegations contained herein.
4. Goodyear consents to venue in the Circuit Court of the City of Richmond for any civil action taken to enforce the terms of this Order.
5. Goodyear declares it has received fair and due process under the Administrative Process Act, Va. Code §§ 2.2 4000 *et seq.*, and the State Air Pollution Control Law and it waives the right to any hearing or other administrative proceeding authorized or required by law or regulation, and to any judicial review of any issue of fact or law contained herein. Nothing herein shall be construed as a waiver of the right to any administrative proceeding for, or to judicial review of, any action taken by the Board to enforce this Order.
6. Failure by Goodyear to comply with any of the terms of this Order shall constitute a violation of an order of the Board. Nothing herein shall waive the initiation of appropriate enforcement actions or the issuance of additional orders as appropriate by the Board or the Director as a result of such violations. Nothing herein shall affect appropriate enforcement actions by any other federal, state, or local regulatory authority.
7. If any provision of this Order is found to be unenforceable for any reason, the remainder of the Order shall remain in full force and effect.
8. Goodyear shall be responsible for failure to comply with any of the terms and conditions of this Order unless compliance is made impossible by earthquake, flood, other acts of God, war, strike, or such other occurrence. Goodyear shall show that such circumstances were beyond its control and not due to a lack of good faith or diligence on its part. The Goodyear Tire and Rubber Company shall notify the DEQ Regional Director in writing when circumstances are anticipated to occur, are occurring, or have occurred that may delay compliance or cause noncompliance with any requirement of the Order. Such notice shall set forth:
 - a. the reasons for the delay or noncompliance;
 - b. the projected duration of any such delay or noncompliance;

- c. the measures taken and to be taken to prevent or minimize such delay or noncompliance; and
- d. the timetable by which such measures will be implemented and the date full compliance will be achieved.

Failure to so notify the Regional Director within 24 hours of learning of any condition above, which the parties intend to assert will result in the impossibility of compliance, shall constitute a waiver of any claim to inability to comply with a requirement of this Order.

- 9. This Order is binding on the parties hereto, their successors in interest, designees and assigns, jointly and severally.
- 10. This Order shall become effective upon execution by both the Director or his designee and Goodyear. Notwithstanding the foregoing, Goodyear agrees to be bound by any compliance date, which precedes the effective date of this Order.
- 11. This Order shall continue in effect until the Director or Board terminates the Order in his or its sole discretion upon 30 days written notice to Goodyear. Termination of this Order, or any obligation imposed in this Order, shall not operate to relieve Goodyear, from its obligation to comply with any statute, regulation, permit condition, other order, certificate, certification, standard, or requirement otherwise applicable.

12. By its signature below The Goodyear Tire & Rubber Company voluntarily agrees to the issuance of this Order.

And it is so ORDERED this day of January 13, 2005.

for Donald B. Miller
Director
Department of Environmental Quality

The Goodyear Tire & Rubber Company voluntarily agrees to the issuance of this Order.

By: Donald E. Stanley
Date: January 13, 2005

STATE OF OHIO)
COUNTY OF SUMMIT)

The foregoing document was signed and acknowledged before me this 13th day of January, 2005, by Donald E. Stanley, who is Vice President of The Goodyear Tire & Rubber Company, on behalf of the Corporation.

Kim N. Scanlan
Notary Public

My commission expires: _____

KIM N. SCANLAN, Notary Public
Residence - Medina County
State Wide Jurisdiction, Ohio
My Commission Expires Sept. 29, 2007